

2007 DRAFTING REQUEST

Bill

Received: **07/16/2007**

Received By: **rchampag**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Mary Mathias**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **State Govt - miscellaneous
Local Gov't - misc**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Affirmative action practices in public employment

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	rchampag 07/16/2007 mshovers 07/16/2007 csundber 07/18/2007 rchampag 07/24/2007	wjackson 08/07/2007	jfrantze 08/08/2007	_____	mbarman 08/08/2007		S&L
/1	rchampag 09/11/2007	wjackson 09/11/2007	pgreensl 09/11/2007	_____	sbasford 09/11/2007	sbasford 09/11/2007	S&L

FE Sent For: **"1" AT INTRO. 9-20-07**

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/P1	rchampag	wjackson	jfrantze	_____	mbarman		S&L
	07/16/2007	08/07/2007	08/08/2007	_____	08/08/2007		
	mshovers			_____			
	07/16/2007			_____			
	csundber	1 wj 9/11	9/11	_____			
	07/18/2007			_____			
	rchampag			_____			
	07/24/2007			_____			

FE Sent For:

<END>

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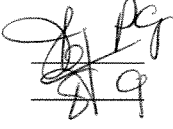
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/P1	rchampag	/pl wlj 8/7					

FE Sent For:

<END>

1 **AN ACT** *to amend* 36.34 (1) (a) (intro.), 39.40 (1) (intro.), 39.44 (1) (a) (intro.),
2 560.036 (1) (e) 1. a., 560.036 (1) (ep) 1. and 560.036 (1) (fm) 1.; and *to create*
3 16.765 (3m), 36.11 (3) (am), 66.0145 (1) and (2) and 230.01 (2m) of the statutes;
4 **relating to:** affirmative action practices in state and local government contracting
5 and state and local government hiring, and the consideration of race or ethnicity in
6 the University of Wisconsin System and by the higher educational aids board.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on affirmative action.

Under current law, the minority group members who own, control, and actively manage businesses that are minority businesses, minority financial advisers, or minority investment firms under s. 560.036, stats., must be U.S. citizens or persons lawfully admitted to the United States for permanent residence, as defined under 8 USC 1101 (a) (20).

This draft would require the minority group members who own, control, and actively manage businesses that are minority businesses, minority financial advisers, or minority investment firms under s. 560.036, stats., to be U.S. citizens.

This draft would prohibit the consideration of race or ethnicity, for purposes of determining compliance with affirmative action requirements in s. 16.765, stats., of any person who is not a U.S. citizen or person lawfully admitted to the United States for permanent residence, as defined under 8 USC 1101 (a) (20).

This draft would specify that the University of Wisconsin (UW) System may not consider the race or ethnicity of an applicant in that applicant's admission to the UW System unless the applicant is a U.S. citizen.

Under current law, the Ben R. Lawton minority undergraduate program provides financial assistance, in the form of grants, to certain minority undergraduate students enrolled in the UW System. The draft would create the requirement that a student must be a U.S. citizen in order to

1 36.11 (3) (am) The board may not consider the race or ethnicity of an applicant for
2 admission as a factor weighing in favor of admission of the person to the University of
3 Wisconsin System unless the applicant is a U.S. citizen.

4 **SECTION 3.** 36.34 (1) (a) (intro.) of the statutes is amended to read:

5 36.34 (1) (a) (intro.) In this subsection “minority undergraduate” means an
6 undergraduate student who is a U.S. citizen and who:

7 **SECTION 4.** 39.40 (1) (intro.) of the statutes is amended to read:

8 39.40 (1) (intro.) In this section “minority student” means a student who is a U.S. citizen
9 and who is any of the following :

10 **SECTION 5.** 39.44 (1) (a) (intro.) of the statutes is amended to read:

11 39.44 (1) (a) (intro.) In this section “minority undergraduate” means an undergraduate
12 student who is a U.S. citizen and who:

13 **SECTION 6.** 66.0145 (1) and (2) of the statutes are created to read:

14 66.0145 (1) In this subsection, “local governmental unit” means a city, village, town,
15 school district, or county.

16 (2) For the purposes of any affirmative action hiring or contracting program, a local
17 governmental unit may not consider the race or ethnicity of a contractor, employee, or
18 applicant for employment unless the contractor, employee, or applicant for employment is a
19 U.S. citizen. This subsection does not apply to the extent that its application would cause a
20 local governmental unit to be deemed ineligible for federal funds.

21 **SECTION 7.** 230.01 (2m) of the statutes is created to read:

22 230.01 (2m) For purposes of affirmative action under this chapter, the race or ethnicity
23 of an employee or applicant for employment may not be considered unless the employee or
24 applicant for employment is a U.S. citizen.

1 **SECTION 8.** 560.036 (1) (e) 1. a. of the statutes is amended to read:

2 560.036 **(1)** (e) 1. a. It is at least 51% owned, controlled and actively managed by a
3 minority group member or members who are U.S. citizens ~~or persons lawfully admitted to the~~
4 United States for permanent residence, as defined under 8 USC 1101 (a) (20).

5 **SECTION 9.** 560.036 (1) (ep) 1. of the statutes is amended to read:

6 560.036 **(1)** (ep) 1. It is at least 51% owned, controlled and actively managed by a
7 minority group member or members who are U.S. citizens ~~or persons lawfully admitted to the~~
8 United States for permanent residence, as defined under 8 USC 1101 (a) (20).

9 **SECTION 10.** 560.036 (1) (fm) 1. of the statutes is amended to read:

10 560.036 **(1)** (fm) 1. It is at least 51% owned, controlled and actively managed by a
11 minority group member or members who are U.S. citizens ~~or persons lawfully admitted to the~~
12 United States for permanent residence, as defined under 8 USC 1101 (a) (20).

13 **(END)**



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2976/P1

RAC&MES&CMH&CTS:Y:....

SOON

Wed.
Thursday
please

WLJ
MDK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

-gen. cat

eligibility requirements
for minority teacher loans
and minority undergraduate
grants awarded

3

1 AN ACT ...; **relating to:** affirmative action practices in state and local government
2 contracting and state and local government hiring, ~~and~~ the consideration of
3 race or ethnicity in the University of Wisconsin System and by the higher
4 educational aids board.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

FE-SL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This ~~draft~~ ^{bill} was prepared for the joint legislative council's special committee on affirmative action.

Under current law, the minority group members who own, control, and actively manage businesses that are minority businesses, minority financial advisers, or minority investment firms under s. 560.036, stats., must be U.S. citizens or persons lawfully admitted to the United States for permanent residence, as defined under 8 USC 1101 (a) (20).

This ~~draft~~ ^{bill} would require the minority group members who own, control, and actively manage businesses that are minority businesses, minority financial advisers, or minority investment firms under s. 560.036, stats., to be U.S. citizens.

bill
This draft would prohibit the consideration of race or ethnicity, for purposes of determining compliance with affirmative action requirements in s. 16.765, stats., of any person who is not a U.S. citizen or person lawfully admitted to the United States for permanent residence, as defined under 8 USC 1101 (a) (20). *bill requires*

This draft would specify that the University of Wisconsin (UW) System may not consider the race or ethnicity of an applicant in that applicant's admission to the UW System unless the applicant is a U.S. citizen.

Under current law, the Ben R. Lawton minority undergraduate program provides financial assistance, in the form of grants, to certain minority undergraduate students enrolled in the UW System. The draft would create the requirement that a student *to* must be a U.S. citizen in order to receive a grant under the Ben R. Lawton minority undergraduate grant program. *HEAB awards*

Under current law, the Higher Educational Aids Board (HEAB) *administers* operates a minority teacher loan program. Under the program, *HEAB* the board shall award loans to certain minority students who teach or agree to teach in school districts with high minority populations. The loan program also specifies terms for loan forgiveness. Additionally, *bill requires a student to* the HEAB operates a minority undergraduate grant program. Under the program, the board provides financial assistance, in the form of grants, to certain minority students enrolled in the Wisconsin technical college system and private institutions of higher education.

a minority teacher loan or
This draft would create the requirement that a student must be a U.S. citizen in order to receive a minority undergraduate grant or minority teacher loan from the HEAB. *bill*

county for
This draft would require contractors, employers, and applicants for employment to be U.S. citizens in order to be eligible for affirmative action contracting and hiring programs of a city, village, town, school district, or county unless the citizenship requirement would cause a loss of federal funding to the local governmental unit.

bill
Current law, ch. 230, stats., relating to state civil service, establishes the policy to take affirmative action which is not in conflict with other provisions of the chapter. This draft would prohibit the consideration of race or ethnicity for affirmative action in ch. 230, stats., unless the consideration of race or ethnicity applies to a U.S. citizen.

SECTION 1. 16.765 (1) of the statutes is amended to read:

16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, and the Bradley Center Sports and Entertainment Corporation shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m), or national origin and, except with respect to sexual orientation, obligating the contractor to take affirmative action to

1 ensure equal employment opportunities. A contractor is may not take affirmative
 2 action by considering the race or the ethnicity of an employee or applicant for
 3 employment unless the employee or applicant for employment is a U.S. citizen.

Note: Note: Sub. (1) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).Note:

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; s. 13.93 (2) (c).

4 **SECTION 2. 16.765 (2) of the statutes is amended to read:**

5 **16.765 (2)** Contracting agencies, the University of Wisconsin Hospitals and
 6 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
 7 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, and the
 8 Bradley Center Sports and Entertainment Corporation shall include the following
 9 provision in every contract executed by them: "In connection with the performance
 10 of work under this contract, the contractor agrees not to discriminate against any
 11 employee or applicant for employment because of age, race, religion, color, handicap,
 12 sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual
 13 orientation or national origin. This provision shall include, but not be limited to, the
 14 following: employment, upgrading, demotion or transfer; recruitment or recruitment
 15 advertising; layoff or termination; rates of pay or other forms of compensation; and
 16 selection for training, including apprenticeship. Except with respect to sexual
 17 orientation, the contractor further agrees to take affirmative action to ensure equal
 18 employment opportunities; the contractor will take affirmative action that considers
 19 race or ethnicity only if the employee or applicant for employment is a U.S. citizen.

20 The contractor agrees to post in conspicuous places, available for employees and
 21 applicants for employment, notices to be provided by the contracting officer setting
 22 forth the provisions of the nondiscrimination clause".

Note: Note: Sub. (2) is shown as affected by 2 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c).Note:

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; s. 13.93 (2) (c).

23 **SECTION 3. 230.01 (2m) of the statutes is created to read:**

INS
MDK
Insert
GME
INS
MES

1 230.01 (2m) For purposes of affirmative action under this chapter, the race or
2 ethnicity of an employee or applicant for employment may not be considered unless
3 the employee or applicant for employment is a U.S. citizen.

4 **SECTION 4.** 560.036 (1) (e) 1. a. of the statutes is amended to read:

5 560.036 (1) (e) 1. a. It is at least 51% owned, controlled and actively managed
6 by a minority group member or members who are U.S. citizens ~~or persons lawfully~~
7 ~~admitted to the United States for permanent residence, as defined under 8 USC 1101~~
8 (a) (20).

History: 1983 a. 390; 1985 a. 182 s. 57; 1987 a. 27, 403; 1989 a. 31; 1991 a. 37, 39, 189; 1993 a. 112; 1997 a. 27; 1999 a. 150 s. 672.

9 **SECTION 5.** 560.036 (1) (ep) 1. of the statutes is amended to read:

10 560.036 (1) (ep) 1. It is at least 51% owned, controlled and actively managed
11 by a minority group member or members who are U.S. citizens ~~or persons lawfully~~
12 ~~admitted to the United States for permanent residence, as defined under 8 USC 1101~~
13 (a) (20).

History: 1983 a. 390; 1985 a. 182 s. 57; 1987 a. 27, 403; 1989 a. 31; 1991 a. 37, 39, 189; 1993 a. 112; 1997 a. 27; 1999 a. 150 s. 672.

14 **SECTION 6.** 560.036 (1) (fm) 1. of the statutes is amended to read:

15 560.036 (1) (fm) 1. It is at least 51% owned, controlled and actively managed
16 by a minority group member or members who are U.S. citizens ~~or persons lawfully~~
17 ~~admitted to the United States for permanent residence, as defined under 8 USC 1101~~
18 (a) (20).

History: 1983 a. 390; 1985 a. 182 s. 57; 1987 a. 27, 403; 1989 a. 31; 1991 a. 37, 39, 189; 1993 a. 112; 1997 a. 27; 1999 a. 150 s. 672.

19 **SECTION 7. Initial applicability.**

20 (1) AFFIRMATIVE ACTION, LOCAL GOVERNMENTS.

21 (a) Except as provided in paragraph (b), the treatment of section 66.0130 of the
22 statutes first applies to a contract that is entered into with a contractor, an applicant
23 for employment who submits an application, or an employee who is not covered by

1 a collective bargaining agreement and who applies to participate in an affirmative
2 action program on the effective date of this paragraph.

3 (b) The treatment of section 66.0130 of the statutes first applies to an employee
4 who is covered by a collective bargaining agreement that contains provisions
5 inconsistent with this act on the day on which the collective bargaining agreement
6 expires or is extended, modified, or renewed, whichever occurs first.

(END)

7
ms
5-7

receive a grant under the Ben R. Lawton minority undergraduate grant program.

Under current law, the higher educational aids board (HEAB) operates a minority teacher loan program. Under the program, the board shall award loans to certain minority students who teach or agree to teach in school districts with high minority populations. The loan program also specifies terms for loan forgiveness. Additionally, the HEAB operates a minority undergraduate grant program. Under the program, the board provides financial assistance, in the form of grants, to certain minority students enrolled in the Wisconsin technical college system and private institutions of higher education.

This draft would create the requirement that a student must be a U.S. citizen in order to receive a minority undergraduate grant or minority teacher loan from the HEAB.

This draft would require contractors, employers, and applicants for employment to be U.S. citizens in order to be eligible for affirmative action contracting and hiring programs of a city, village, town, school district, or county unless the citizenship requirement would cause a loss of federal funding to the local governmental unit.

Current law, ch. 230, stats., relating to state civil service, establishes the policy to take affirmative action which is not in conflict with other provisions of the chapter. This draft would prohibit the consideration of race or ethnicity for affirmative action in ch. 230, stats., unless the consideration of race or ethnicity applies to a U.S. citizen.

1 **SECTION 1.** 16.765 (3m) of the statutes is created to read:

2 16.765 (3m) For purposes of affirmative action under subs. (1) and (2), contracting
3 agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
4 Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance
5 Risk-Sharing Plan Authority, and the Bradley Center Sports and Entertainment Corporation
6 may not consider the race or ethnicity of an employee or applicant for employment unless the
7 employee or applicant for employment is a U.S. citizen.

8 **SECTION 2.** 36.11 (3) (am) of the statutes is created to read:

INSTR
MDR

INSERT MDT (continued)

36.11 (3) (am) The board may not consider the race or ethnicity of an applicant for admission as a factor weighing in favor of admission of the person to the University of Wisconsin System unless the applicant is a U.S. citizen.

SECTION ~~3~~ 36.34 (1) (a) (intro.) of the statutes is amended to read:

36.34 (1) (a) (intro.) In this subsection "minority undergraduate" means an undergraduate student who is a U.S. citizen and who:

END OF INSERT MDT

SECTION ~~3~~ 39.40 (1) (intro.) of the statutes is amended to read:

39.40 (1) (intro.) In this section "minority student" means a student who is a U.S. citizen and who is any of the following:

SECTION ~~3~~ 39.44 (1) (a) (intro.) of the statutes is amended to read:

39.44 (1) (a) (intro.) In this section "minority undergraduate" means an undergraduate student who is a U.S. citizen and who:

is any of the following

SECTION ~~6~~ 66.0145 (1) and (2) of the statutes are created to read:

66.0145 (1) In this subsection, "local governmental unit" means a city, village, town, or school district or county.

or school district or county

(2) For the purposes of any affirmative action hiring or contracting program, a local governmental unit may not consider the race or ethnicity of a contractor, employee, or applicant for employment unless the contractor, employee, or applicant for employment is a U.S. citizen. This subsection does not apply to the extent that its application would cause a local governmental unit to be deemed ineligible for federal funds.

SECTION 7. 230.01 (2m) of the statutes is created to read:

230.01 (2m) For purposes of affirmative action under this chapter, the race or ethnicity of an employee or applicant for employment may not be considered unless the employee or applicant for employment is a U.S. citizen.

Insert
GMM

INS
MES
→

CR: 66.0130

66.0130 (1) Local governmental affirmative action

66.0145 (1) In this subsection, "local governmental unit" means a city, village, town, or school district or county.

county

1 230.01 (2m) For purposes of affirmative action under this chapter, the race or
2 ethnicity of an employee or applicant for employment may not be considered unless
3 the employee or applicant for employment is a U.S. citizen.

4 **SECTION 4. Initial applicability.**

5 (1) AFFIRMATIVE ACTION, LOCAL GOVERNMENTS.

6 (a) Except as provided in paragraph (b), the treatment of section 66.0130 of the
7 statutes first applies to a contract that is entered into with a contractor, an applicant
8 for employment who submits an application, or an employee who is not covered by
9 a collective bargaining agreement and who applies to participate in an affirmative
10 action program on the effective date of this paragraph.

11 (b) The treatment of section 66.0130 of the statutes first applies to an employee
12 who is covered by a collective bargaining agreement that contains provisions
13 inconsistent with this act on the day on which the collective bargaining agreement
14 expires or is extended, modified, or renewed, whichever occurs first.

15 (END)

5-7

INIT App
No B
(a) MINORITY STUDENT GRANT AND LOAN PROGRAMS

The treatment of sections 39.040 (1)(intro) and 39.044 (1)(intro) of the statutes first applies to minority teacher loans and minority undergraduate grants awarded by the Higher Educational Aids Board for the 2008-09 academic year.

INSEPTA-1A

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2976/P1insMK
MDK:.....

1

~~INSERT 4-14:~~

2

~~(3)~~ UNIVERSITY OF WISCONSIN ADMISSIONS. The treatment of section 36.11 (3)

3

(am) of the statutes first applies to applicants for admission for the academic

4

semester that begins after the effective date of this subsection.

5

~~(4)~~ MINORITY UNDERGRADUATE GRANT PROGRAM. The treatment of section 36.34

6

(1) (a) (intro.) of the statutes first applies to grants made on the effective date of this

7

subsection.

9

~~(4)~~ AFFIRMATIVE ACTION; STATE GOVERNMENT

IT

treatment of section 230001 (2m) of the statutes
first applies to offers of employment in the state
government on the effective date of this subsection.

INIT
APP

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2976/P1dn
RAC&MES:.....

WJ
GMM
MDK

Mary Matthias:

For purposes of state government employment, did you also want to amend the definition of "affirmative action" under s. 230.03 (2)? That definition does not specify that the state's affirmative action practices apply only to U.S. citizens.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.wisconsin.gov

WJ The definition of "local governmental unit" in created s. 66.0130 does not include special purpose districts, such as the Milwaukee Metropolitan Sewerage District (MMSD), which has a minority business development and training program (see s. 200.49), and certain special purpose districts, which have minority contracting requirements or goals (see ss. 229.46, local exposition districts; 229.70, baseball park districts; 229.8273, football stadium districts; and 229.845, cultural arts districts). Please let me know if you'd like any of these districts included. One way to include these and other special purpose districts, if that is your desire, would be to use the definition of "local governmental unit" that is in s. 66.0131 (1) (a).***

STET

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov



NOTE (continued)

⑨ HEAB administers numerous other grant and loan programs in addition to the minority teacher loan program and the minority undergraduate grant program. Does the committee wish to limit those other grant and loan programs to UoW citizens as well? ✓

GMM

⑩ Are the initial applicability provisions for ss. 3601(3)(am) and 3603(1)(a) (intro) okay?

MOT

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2976/P1dn
RAC/MES/GMM/MDK:wlj:jf

August 8, 2007

Mary Matthias:

For purposes of state government employment, did you also want to amend the definition of "affirmative action" under s. 230.03 (2)? That definition does not specify that the state's affirmative action practices apply only to U.S. citizens.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.wisconsin.gov

The definition of "local governmental unit" in created s. 66.0130 does not include special purpose districts, such as the Milwaukee Metropolitan Sewerage District (MMSD), which has a minority business development and training program (see s. 200.49), and certain special purpose districts, which have minority contracting requirements or goals (see ss. 229.46, local exposition districts; 229.70, baseball park districts; 229.8273, football stadium districts; and 229.845, cultural arts districts). Please let me know if you'd like any of these districts included. One way to include these and other special purpose districts, if that is your desire, would be to use the definition of "local governmental unit" that is in s. 66.0131 (1) (a).

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

HEAB administers numerous other grant and loan programs in addition to the minority teacher loan program and the minority undergraduate grant program. Does

the committee wish to limit those other grant and loan programs to U.S. citizens as well?

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

Are the initial applicability provisions for ss. 36.11 (3) (am) and 36.34 (1) (a) (intro.) okay?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Champagne, Rick

From: Matthias, Mary
Sent: Monday, September 10, 2007 1:29 PM
To: Champagne, Rick; Shovers, Marc
Cc: Grosz, Scott
Subject: LRB 2976/P1-Aff. Action

Rick and Marc-

We like the draft as is. Could you have it jacketed and send it up to us?

Thanks!

Mary and Scott

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2976/P1
RC/MS/CH/CS/MK:wlj:jf

John

RMK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- regen cat

1 AN ACT *to amend* 16.765 (1), 16.765 (2), 36.34 (1) (a) (intro.), 39.40 (1) (intro.),
2 39.44 (1) (a) (intro.), 560.036 (1) (e) 1. a., 560.036 (1) (ep) 1. and 560.036 (1) (fm)
3 1.; and *to create* 36.11 (3) (am), 66.0130 and 230.01 (2m) of the statutes;
4 **relating to:** affirmative action practices in state and local government
5 contracting and state and local government hiring, the consideration of race or
6 ethnicity in the University of Wisconsin System, and eligibility requirements
7 for minority teacher loans and minority undergraduate grants awarded by the
8 Higher Educational Aids Board.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on affirmative action.

Under current law, the minority group members who own, control, and actively manage businesses that are minority businesses, minority financial advisers, or minority investment firms under s. 560.036, stats., must be U.S. citizens or persons lawfully admitted to the United States for permanent residence, as defined under 8 USC 1101 (a) (20).

This bill would require the minority group members who own, control, and actively manage businesses that are minority businesses, minority financial advisers, or minority investment firms under s. 560.036, stats., to be U.S. citizens.

This bill would prohibit the consideration of race or ethnicity, for purposes of determining compliance with affirmative action requirements in s. 16.765, stats., of any person who is not a U.S. citizen.

This bill would specify that the University of Wisconsin (UW) System may not consider the race or ethnicity of an applicant in that applicant's admission to the UW System unless the applicant is a U.S. citizen.

Under current law, the Ben R. Lawton minority undergraduate program provides financial assistance, in the form of grants, to certain minority undergraduate students enrolled in the UW System. The bill requires a student to be a U.S. citizen in order to receive a grant under the Ben R. Lawton minority undergraduate grant program.

Under current law, the Higher Educational Aids Board (HEAB) administers a minority teacher loan program. Under the program, HEAB awards loans to certain minority students who teach or agree to teach in school districts with high minority populations. The loan program also specifies terms for loan forgiveness. Additionally, HEAB operates a minority undergraduate grant program. Under the program, HEAB provides financial assistance, in the form of grants, to certain minority students enrolled in the Wisconsin technical college system and private institutions of higher education.

This bill requires a student be a U.S. citizen in order to receive a minority teacher loan or a minority undergraduate grant from HEAB.

This bill would require contractors, employers, and applicants for employment to be U.S. citizens in order to be eligible for affirmative action programs of a city, village, town, county, or school district unless the citizenship requirement would cause a loss of federal funding to the local governmental unit.

Current law, ch. 230, stats., relating to state civil service, establishes the policy to take affirmative action which is not in conflict with other provisions of the chapter. This bill would prohibit the consideration of race or ethnicity for affirmative action in ch. 230, stats., unless the consideration of race or ethnicity applies to a U.S. citizen.

SECTION 1. 16.765 (1) of the statutes is amended to read:

16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, and the Bradley Center Sports and Entertainment Corporation shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5),

1 sexual orientation as defined in s. 111.32 (13m), or national origin and, except with
2 respect to sexual orientation, obligating the contractor to take affirmative action to
3 ensure equal employment opportunities. A contractor may not take affirmative
4 action by considering the race or the ethnicity of an employee or applicant for
5 employment unless the employee or applicant for employment is a U.S. citizen.

6 **SECTION 2.** 16.765 (2) of the statutes is amended to read:

7 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
8 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
9 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, and the
10 Bradley Center Sports and Entertainment Corporation shall include the following
11 provision in every contract executed by them: "In connection with the performance
12 of work under this contract, the contractor agrees not to discriminate against any
13 employee or applicant for employment because of age, race, religion, color, handicap,
14 sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual
15 orientation or national origin. This provision shall include, but not be limited to, the
16 following: employment, upgrading, demotion or transfer; recruitment or recruitment
17 advertising; layoff or termination; rates of pay or other forms of compensation; and
18 selection for training, including apprenticeship. Except with respect to sexual
19 orientation, the contractor further agrees to take affirmative action to ensure equal
20 employment opportunities; the contractor will take affirmative action that considers
21 race or ethnicity only if the employee or applicant for employment is a U.S. citizen.

22 The contractor agrees to post in conspicuous places, available for employees and
23 applicants for employment, notices to be provided by the contracting officer setting
24 forth the provisions of the nondiscrimination clause".

25 **SECTION 3.** 36.11 (3) (am) of the statutes is created to read:

1 36.11 (3) (am) The board may not consider the race or ethnicity of an applicant
2 for admission as a factor weighing in favor of admission of the person to the
3 University of Wisconsin System unless the applicant is a U.S. citizen.

4 **SECTION 4.** 36.34 (1) (a) (intro.) of the statutes is amended to read:

5 36.34 (1) (a) (intro.) In this subsection "minority undergraduate" means an
6 undergraduate student who is a U.S. citizen and who:

7 **SECTION 5.** 39.40 (1) (intro.) of the statutes is amended to read:

8 39.40 (1) (intro.) In this section "minority student" means a student who is a
9 U.S. citizen and who is any of the following:

10 **SECTION 6.** 39.44 (1) (a) (intro.) of the statutes is amended to read:

11 39.44 (1) (a) (intro.) In this section "minority undergraduate" means an
12 undergraduate student who is a U.S. citizen and who is any of the following:

13 **SECTION 7.** 66.0130 of the statutes is created to read:

14 66.0130 **Local governmental affirmative action.** (1) In this section, "local
15 governmental unit" means a city, village, town, county, or school district.

16 (2) For the purposes of any affirmative action program, a local governmental
17 unit may not consider the race or ethnicity of a contractor, employee, or applicant for
18 employment unless the contractor, employee, or applicant for employment is a U.S.
19 citizen. This subsection does not apply to the extent that its application would cause
20 a local governmental unit to be deemed ineligible for federal funds.

21 **SECTION 8.** 230.01 (2m) of the statutes is created to read:

22 230.01 (2m) For purposes of affirmative action under this chapter, the race or
23 ethnicity of an employee or applicant for employment may not be considered unless
24 the employee or applicant for employment is a U.S. citizen.

25 **SECTION 9.** 560.036 (1) (e) 1. a. of the statutes is amended to read:

1 560.036 (1) (e) 1. a. It is at least 51% owned, controlled and actively managed
2 by a minority group member or members who are U.S. citizens ~~or persons lawfully~~
3 ~~admitted to the United States for permanent residence, as defined under 8 USC 1101~~
4 ~~(a) (20).~~

5 **SECTION 10.** 560.036 (1) (ep) 1. of the statutes is amended to read:

6 560.036 (1) (ep) 1. It is at least 51% owned, controlled and actively managed
7 by a minority group member or members who are U.S. citizens ~~or persons lawfully~~
8 ~~admitted to the United States for permanent residence, as defined under 8 USC 1101~~
9 ~~(a) (20).~~

10 **SECTION 11.** 560.036 (1) (fm) 1. of the statutes is amended to read:

11 560.036 (1) (fm) 1. It is at least 51% owned, controlled and actively managed
12 by a minority group member or members who are U.S. citizens ~~or persons lawfully~~
13 ~~admitted to the United States for permanent residence, as defined under 8 USC 1101~~
14 ~~(a) (20).~~

15 **SECTION 12. Initial applicability.**

16 (1) AFFIRMATIVE ACTION, LOCAL GOVERNMENTS.

17 (a) Except as provided in paragraph (b), the treatment of section 66.0130 of the
18 statutes first applies to a contract that is entered into with a contractor, an applicant
19 for employment who submits an application, or an employee who is not covered by
20 a collective bargaining agreement and who applies to participate in an affirmative
21 action program on the effective date of this paragraph.

22 (b) The treatment of section 66.0130 of the statutes first applies to an employee
23 who is covered by a collective bargaining agreement that contains provisions
24 inconsistent with this act on the day on which the collective bargaining agreement
25 expires or is extended, modified, or renewed, whichever occurs first.

(2) MINORITY STUDENT GRANT AND LOAN PROGRAMS. The treatment of sections 39.40 (1) (intro.) and 39.44 (1) (a) (intro.) of the statutes first applies to minority teacher loans and minority undergraduate grants awarded by the higher educational aids board for the 2008–09 academic year.

(3) UNIVERSITY OF WISCONSIN ADMISSIONS. The treatment of section 36.11 (3) (am) of the statutes first applies to applicants for admission for the academic semester that begins after the effective date of this subsection.

(4) MINORITY UNDERGRADUATE GRANT PROGRAM. The treatment of section 36.34 (1) (a) (intro.) of the statutes first applies to grants made on the effective date of this subsection.

(5) AFFIRMATIVE ACTION; STATE GOVERNMENT. The treatment of sections 230.01 (2m) of the statutes first applies to offers of employment in the state government on the effective date of this subsection.

(END)